

MIDDLE DISTRICT OF TENNESSEE

Daniel James Silva

3:20-cv-00810

Plaintiff

-vs-

Swift et al

Defendant

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OCT 01 2020

US DISTRICT COURT
MID DIST TENN

AFFIDAVIT

I, Daniel James Silva, of _____, in Forsyth, North Carolina,
MAKE OATH AND SAY THAT:

1. Affidavit in support to proceed in forma pauperis,

1st. every federal judge must take an oath affirming to "administer justice without respect to person, and do equal right to the poor and to the rich," and to "faithfully and impartially discharge and perform all the duties incumbent upon me as judge under the Constitution and laws of the United States." The Judiciary Act of 1789, one of those laws, states that "in all courts of the United States, the parties may plead and manage their own causes personally." It follows that federal judges must respect the pro se litigants' right to represent themselves. Thus, the Supreme Court and Congress have means to remedy the problems with federal judges who disrespect and ignore the rights of pro se litigants.

2nd Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958) Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. The U.S. Supreme Court has stated that "no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it". See also In Re Sawyer, 124 U.S. 200 (188); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia.

3rd Hoffsomer v. Hayes, 92 Okla 32, 227 F. 417 "The courts are not bound by an officer's interpretation of the law under which he presumes to act."

4th Scheuer v. Rhodes, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974) Note: By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect. The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."

5th Murdock v. Pennsylvania, 319 U.S. 105 "No state shall convert a liberty into a license, and charge a fee therefore."

6th Elmore v. McCammon (1986) 640 F. Supp. 905 "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws."

7th Haines v. Kerner, 404 U.S. 519 (1972) "Allegations such as those asserted by petitioner, however in artfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers."

8th Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151 Fed 2nd 240 ; Pucket v. Cox, 456 2nd 233 Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

9th Main v Thiboutot, 100 S Ct. 2502(1980) "Jurisdiction can be challenged at any time," and "Jurisdiction, once challenged, cannot be assumed and must be decided."

10th Basso v. Utah Power & Light Co. 395 F 2d 906, 910 "Once challenged, jurisdiction cannot be assumed, it must be proved to exist."

11th City of Dallas v Mitchell, 245 S.W. 944 "To take away all remedy for the

enforcement of a right is to take away the right itself. But that is not within the power of the State."

12th Poindexter v. Greenhow, 114 U.S. 270, 303 (1885). Brady v. U.S., 397 U.S. 742, 748, (1970)"Waivers of Constitutional Rights, not only must they be voluntary, they must be knowingly intelligent acts done with sufficient awareness."

13th Nudd v. Burrows, 91 U.S. 426. "Fraud vitiates everything"

14th Boyce v. Grundy, 3 Pet. 210 "Fraud vitiates the most solemn contracts, documents and even judgments."

15th Williamson v. U.S. Department of Agriculture, 815 F.2d. 369, ACLU Foundation v. Barr, 952 F.2d. 457, 293 U.S. App. DC 101, (CA DC 1991)."It is the duty of all officials whether legislative, judicial, executive, administrative, or ministerial to so perform every official act as not to violate constitutional provisions."

16th THE RIGHT TO PROCEED IN FORMA PAUPERIS: ISRIN V. SUPERIORCOURT (CAL. 1965)

STATE OF NORTH CAROLINA

COUNTY OF Forsyth

SUBSCRIBED AND SWORN TO BEFORE ME,
on the 27th day of September, 2020

Signature Amber S. Street

(Seal)

NOTARY PUBLIC

My Commission expires: April 27, 2021

AMBER S. STREET
Notary Public - North Carolina
Forsyth County
My Commission Expires April 27, 2021

DLS
(Signature)

Daniel James Silva

From Daniel James Silva
PO Box 493, Colfax, nc, 27235

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